

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES MORALES,

Plaintiff,

-against-

Case No. 1:16-cv-02134-ALC-  
JLC

KAVULICH & ASSOCIATES, P.C.,  
GARY KAVULICH,  
ROSEWALL GARDENS ASSOCIATES, LP  
f/k/a ROSEWALL GARDENS ASSOCIATES,  
and ROSEWALL, INC.

Defendants.

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**DECLARATION OF MELISSA KOVEN IN SUPPORT OF PLAINTIFF'S  
MOTION FOR SUMMARY JUDGMENT**

STATE OF NEW YORK    )  
                                  ) ss:  
COUNTY OF KINGS     )

NOW COMES Melissa Koven and pursuant to 28 U.S.C. § 1746, declares  
under penalty of perjury that the following is true and correct:

1. I am one of the attorneys for Plaintiff.
2. I submit this declaration in support of Plaintiff's Motion for Summary Judgment pursuant to FRCP 56 and its relevant subsections.
3. Attached as Exhibit A is a true and correct copy of Defendants' Answer to Amended Complaint ("Defendants' Answer").
4. Attached as Exhibit B is a true and correct copy of the November 17, 2016 deposition transcript of Gary Kavulich ("Kavulich 11/17/16 Dep.").
5. Attached as Exhibit C is a true and correct copy of the December 6, 2016 deposition transcript of Gary Kavulich ("Kavulich 12/6/16 Dep.").

6. Attached as Exhibit D is a true and correct copy of the August 10, 2017 Affidavit of James Morales (“Morales Aff.”).
7. Attached as Exhibit E is a true and correct copy of the September 27, 2016 lease for 2300 Sedgwick Avenue, Apt. 4K (“the lease for 2300 Sedgwick Avenue”).
8. Attached as Exhibit F is a true and correct copy of documents relating to *Rosewall Gardens Associates v. James Morales and Clara Potter*, Index No. LT-67049-07/BX (the “LT Action”).
9. Attached as Exhibit G is a true and correct copy of the renewal lease for 2300 Sedgwick Avenue, Apt. 4K.
10. Attached as Exhibit H is a true and correct copy of the summons and complaint for *Rosewall Gardens Associates v. James Morales and Clara Potter*, Index No. CV-060346-08/BX (the “CC Action”).
11. Attached as Exhibit I is a true and correct copy of the November 8, 2016 deposition transcript of Jonathan Desner.
12. Attached as Exhibit J is a true and correct copy of Rosewall’s rent ledger.
13. Attached as Exhibit K is a true and correct copy of Kavulich’s records for Collections Case 3594.
14. Attached as Exhibit L is a true and correct copy of Marshal Moses’ case information for Docket #Q000147488.
15. Attached as Exhibit M is a true and correct copy of Mr. Morales’ account statements from TD Bank.

16. Attached as Exhibit N is a true and correct copy of Mr. Morales' July 17, 2015 demand letter (absent enclosures).
17. Attached as Exhibit O is a true and correct copy of emails between Kavulich and Marshal Biegel's office concerning Melissa Martinez.
18. Attached as Exhibit P is a true and correct copy of emails between Kavulich and Marshal Biegel's office concerning Earl Robinson.
19. Attached as Exhibit Q is a true and correct copy of the complaint in *Ormsby v. Gary Kavulich et al*, Case No. 1:10-cv-03400-SJ-JO, EDNY.
20. Attached as Exhibit R is a true and correct copy of the court file and case summary for *S&H Clinton Associates LLC v. Bibbs*, Index No. LT-3408/14-Nassau.
21. Attached as Exhibit S is a true and correct copy of emails between Kavulich and Marshal Biegel's office concerning Andrya Bibbs ("Bibbs emails").
22. Attached as Exhibit T is a true and correct copy of the court file and case summary for *Bronx Park East Housing Co., Inc. v. Grant and Outten*, Index No. CV-21678/12-BX.
23. Attached as Exhibit U is a true and correct copy of emails between Kavulich and Marshal Biegel's office concerning Debbie Outten ("Outten emails").
24. Attached as Exhibit V is a true and correct copy of the court file and case summary for *170 Group, LLC v. Tarsha Semakula and George Semakula*, Index No. LT-39735/08-BX ("Semakula case documents").

25. Attached as Exhibit W is a true and correct copy of emails between Kavulich and Marshal Biegel's office concerning Semakula.
26. Attached as Exhibit X is a true and correct copy of the court file and case summary for *Kelly Street Realty Corp. v. Velazquez*, Index No. CV-24996/10-BX.
27. Attached as Exhibit Y is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Eliza Velazquez.
28. Attached as Exhibit Z is a true and correct copy of the court file and case summary for *1815 Morris Realty Corp v. Luiz Gonzales*, Index No. LT-36860/09-BX ("Gonzales case documents").
29. Attached as Exhibit AA is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Luiz Gonzales ("Gonzales emails").
30. Attached as Exhibit BB is a true and correct copy of the civil court file for *Bronx Park East, LLC v. Grandison*, Index No. CV-100374-BX.
31. Attached as Exhibit CC is a true and correct copy of the housing court file for *Bronx Park East, LLC v. Grandison and Hunter*, Index No. LT-57149/07-BX.
32. Attached as Exhibit DD is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Raymond Grandison.
33. Attached as Exhibit EE is a true and correct copy of the case summary for *Prana Growth Fund 1 LP v. Soto*, Index No. LT-2547/06-BX.
34. Attached as Exhibit FF is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Juan Soto.

35. Attached as Exhibit GG is a true and correct copy of the court file for *Prana Growth Fund I, LP v. Rauda-Rodriguez*, Index No. CV-11024/09-BX (“Rauda-Rodriguez case documents”).
36. Attached as Exhibit HH is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Andres Rauda-Rodriguez.
37. Attached as Exhibit II is a true and correct copy of the court file for *Kelly Street Realty, Inc. v. Marrero*, Index No. CV-100350/08-BX (“Marrero case documents”).
38. Attached as Exhibit JJ is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Laura Marrero.
39. Attached as Exhibit KK is a true and correct copy of the court file for *Novick, Edelstein, Lubell, Reisman, Wasserman & Leventhal, P.C. v. Rosemary*, Index No. CV-042539/11-BX.
40. Attached as Exhibit LL is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Millington Rosemary (“Rosemary emails”).
41. Attached as Exhibit MM is a true and correct copy of the court file for *2246 Webster Avenue, HDFC v. Nunez and Martinez*, Index No. CV-33659/11-BX.
42. Attached as Exhibit NN is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Ernesto Nunez (“Nunez emails”).
43. Attached as Exhibit OO is a true and correct copy of the court file for *795 Sheva Realty Assoc. LLC v. Gasparro*, Index No. LT-61457/07-NY.

44. Attached as Exhibit PP is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Victoria Gasparro (“Gasparro emails”).
45. Attached as Exhibit QQ is a true and correct copy of the court file for *608-614 West 189<sup>th</sup> Street, LLC v. Aponte and Santos*, Index No. CV-48231/10-NY.
46. Attached as Exhibit RR is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Joanna Santos (“Santos emails”).
47. Attached as Exhibit SS is a true and correct copy of the court file for *Valentine Apartments, LLC v. Matias and Thompson*, Index No. CV-10985/09-BX.
48. Attached as Exhibit TT is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Meiling Thompson (“Thompson emails”).
49. Attached as Exhibit UU is a true and correct copy of the court file for *1343-45 Prospect Realty v. Gaye*, Index No. CV-89896/08-BX.
50. Attached as Exhibit VV is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Abdou Gaye (“Gaye emails”).
51. Attached as Exhibit WW is a true and correct copy of the court file for *Townsend Garden Corp. v. Tirado*, Index No. CV-41226/09-BX.
52. Attached as Exhibit XX is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Maria Tirado (“Tirado emails”).
53. Attached as Exhibit YY is a true and correct copy of the court file for *Bronx Martial Arts Academy v. White*, Index No. CV-42508/11-BX.
54. Attached as Exhibit ZZ is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Howard White (“White emails”).

55. Attached as Exhibit AAA is a true and correct copy of the court file for *North Management, LLC v. Grillo*, Index No. CV-83691/09-BX.

56. Attached as Exhibit BBB is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Dina Grillo (“Grillo emails”).

57. Attached as Exhibit CCC is a true and correct copy of the court file for *Renaissance Equity Hldgs F LLC v. Rodriguez*, Index No. CV-7557/15-KI.

58. Attached as Exhibit DDD is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Erik Rodriguez (“Rodriguez emails”).

59. Attached as Exhibit EEE is a true and correct copy of the court file for *2246 Webster Avenue, HDFC v. Acevedo*, Index No. CV-48720/11-BX.

60. Attached as Exhibit FFF is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Elizabeth Acevedo (“Acevedo emails”).

61. Attached as Exhibit GGG is a true and correct copy of the court file for *1353 Sheridan Ave v. Sylla and Lassana*, Index No. CV-505/12-BX.

62. Attached as Exhibit HHH is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Nimaga Lassan (“Lassana emails”).

63. Attached as Exhibit III is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Joel Delgado (“Delgado emails”).

64. Attached as Exhibit JJJ is a true and correct copy of the court file for *2229 Creston Partners LLC v. Joel Delgado*, Index No. LT-47671/10-BX.

65. Attached as Exhibit KKK is a true and correct copy of the court file for *City Waste Services of New York, Inc. v. Lemon Green, Corp.*, Index No. CV-1684/13-BX.

66. Attached as Exhibit LLL is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Lemon Green Corp. (“Lemon Green emails”).

67. Attached as Exhibit MMM is a true and correct copy of the court file for *1106 Morris Avenue, HDFC v. Williams-Wailes*, Index No. CV-48726/11-BX.

68. Attached as Exhibit NNN is a true and correct copy of emails between Kavulich and Marshal Biegel concerning Melissa Williams-Wailes.

69. The cases referenced above are not a complete list of all cases in which Kavulich enforced a non-existent or vacated judgment. Because of the delay in retrieving archived court files from civil and housing court, Plaintiff’s counsel has not reviewed all potentially-relevant cases in advance of filing this motion for summary judgment and the cases above represent only the cases identified thus far.

Dated: August 18, 2017  
Brooklyn, New York

\_\_\_\_\_  
/s/  
By: Melissa Koven  
One of Plaintiff’s Attorneys

Attorneys for the Plaintiff

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mitchell L. Pashkin  
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Date: August 18, 2017  
Brooklyn, NY

/s/  
Ahmad Keshavarz  
One of Plaintiff's Attorneys